



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

November 22, 2019

Ms. Detra Whitmore  
Vice President Administration  
Fort Worth Transportation Authority  
801 Cherry Street, Suite 850  
Fort Worth, Texas 76102

OR2019-33182

Dear Ms. Whitmore:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 798193 (PIR No. TMOR2019-059).

The Fort Worth Transportation Authority (the "authority") received a request for all bids submitted for request for proposals number 19-T021. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Adsplosure; Creative Outdoor Advertising of America, Inc. ("Creative"); Lamar Advertising; Mesmerize; Outfront Media Group; Vector Media ("Vector"); and Clear Channel Outdoor ("Clear Channel"). Accordingly, you state, and provide documentation showing, the authority notified these third parties of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from Clear Channel. We have considered the submitted arguments and reviewed the submitted information.

We note the submitted information was the subject of previous requests for information, as a result of which this office issued Open Records Letter No. 2019-26654 (2019). In that ruling, we determined the authority may withhold Clear Channel's and Vector's submitted information under section 552.104(a) of the Government Code and must withhold the information we marked within Creative's information under section 552.110(b) of the Government Code. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, the authority must rely on Open Records Letter No. 2019-26654 as a previous determination and withhold the

identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from the remaining third parties explaining why the information at issue should not be released. Therefore, we have no basis to conclude the remaining third parties have a protected proprietary interest in the information at issue. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the authority may not withhold the remaining information on the basis of any proprietary interest the remaining third parties may have in the information.

In summary, the authority must rely on Open Records Letter No. 2019-26654 as a previous determination and withhold the identical information in accordance with that ruling. The authority must release the remaining information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LH/eb

Ref: ID# 798193

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

7 Third Parties  
(w/o enclosures)